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*Attorneys for Defendant
Walmart Inc.*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ISABEL MANGUIA,

Plaintiff,

v.

WALMART INC., a foreign domestic
incorporated company; DOE WALMART
EMPLOYEE; DOE WALMART MANAGER;
DOE MAINTENANCE COMPANY; DOE
MAINTENANCE WORKER; DOES 1 through
100; ROE BUSINESS ENTITIES 1 through
100, inclusive jointly and severally,

Defendants.

Case No.:

**PETITION FOR REMOVAL OF CIVIL
ACTION BY DEFENDANT WALMART
INC.**

[JURY DEMAND]

COMES NOW Petitioner WALMART INC. (hereinafter “Defendant” or “Sam’s”), by and through their attorneys, the law offices of PHILLIPS, SPALLAS & ANGSTADT, LLC, and hereby submit and respectfully show:

I.

Petitioner WALMART INC. is a Defendant in the above-entitled action.

II.

The above-entitled action was commenced by Plaintiff ISABEL MANGUIA (hereinafter “Plaintiff”) on October 6, 2020, in the Eighth Judicial District in and for Clark County, State of Nevada. Plaintiffs served a summons and copy of their operative Complaint on Walmart on October 8, 2020.

1 True and correct copies of Plaintiff's Complaint and Summons are attached hereto as **Exhibits "A" and**
2 **"B"**, respectively. Defendant filed an Answer on October 27, 2020. A true and correct copy of
3 Defendant's Answer is attached hereto as **Exhibit "C"**. On December 15, 2020, Plaintiff filed an Initial
4 NRCP 16.1 Disclosures Statement (the "Disclosures Statement") in which on page 10 past medical
5 damages are listed totaling \$77,782.96. A true and accurate copy of Plaintiff's Disclosures Statement is
6 attached hereto as **Exhibit "D"**. The Petition goes on to state that these damages "will be supplemented."

7 III..

8 This Petition is timely filed pursuant to 28 U.S.C. § 1446(b).

9 IV.

10 This is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) and
11 is one which may be removed to this Court by Petitioner, pursuant to 28 U.S.C. § 1441(a).
12

13 V.

14 Petitioner is informed, believes, and thereon alleges that Plaintiff Sheila Hix is, and was at the
15 time this action was commenced, a citizen of the State of Nevada.

16 VI.

17 Petitioner Walmart Inc., is, and was at the time this action was commenced, a Delaware
18 corporation with its principal place of business in the State of Arkansas, and therefore a citizen of the
19 State of Delaware and a citizen of the State of Arkansas.
20

21 VII.

22 The above-entitled civil action is for personal and economic damages Plaintiff allegedly incurred
23 from an incident at a Walmart store in Las Vegas, Nevada.

24 VIII.

25 A copy of Defendant's Petition For Removal of Civil Action, seeking removal of the above-
26 entitled action to the United States District Court, District of Nevada, together with a copy of the
27 Summons and Complaint, have been deposited with the Deputy Clerk in the County Clerk's office for
28 the Eighth Judicial District Court in and for Clark County, Nevada.

IX.

True and correct copies of all pleadings and papers served upon Petitioner in the above-entitled action are filed herewith.

X.

This Petition is filed with the Court within thirty (30) days after Petitioner first learned that Plaintiff is seeking reimbursement of medical expenses totaling in excess of \$77,782.96, as is evidenced on p. 10 of Plaintiff's Disclosures Statement (Exhibit "D"). Plaintiff is thus clearly seeking over \$75,000 in total damages, and Plaintiff's Disclosures Statement is the "first paper" referencing the fact that Plaintiff is seeking damages that clearly exceed the \$75,000.00 federal diversity jurisdiction threshold.

XI.

Plaintiff's claims for damages, as well as the complete diversity of the parties, meet the requisite requirements set forth by 28 U.S.C. §1441(b) and 29 U.S.C. §1332.

PRAYER

WHEREFORE, Defendant prays that the above-entitled action be removed from the Eighth Judicial District Court in and for Clark County, Nevada, to this Court.

DATED this 16th day of December, 2020.

PHILLIPS, SPALLAS & ANGSTADT LLC

/s/ Daniel E. Joslyn

DANIEL E. JOSLYN, ESQ.
Nevada Bar No.14725
504 South Ninth Street
Las Vegas, Nevada 89101

*Attorneys for Defendant
Walmart Inc.*

DECLARATION OF DANIEL E. JOSLYN

STATE OF NEVADA)
) ss.
 COUNTY OF CLARK)

I, DANIEL E. JOSLYN, declare under penalty of perjury that the foregoing is true and correct:

1. I am an attorney, duly licensed and authorized to practice law within the courts of the State of Nevada.

2. I am an attorney in the law firm of PHILLIPS, SPALLAS & ANGSTADT LLC, representing Petitioner Walmart Inc. in the case of *Isabel Manguia v. Walmart Inc.*, pending in the Clark County District Court, Case No. A-20-822570-C, filed in Department No. XV, of the Eighth Judicial District Court, in and for Clark County, Nevada. True and correct copies of Plaintiff's Complaint and Summons are attached hereto as Exhibit A and Exhibit B, respectively. I have prepared and read the foregoing Petition for Removal of Civil Action and know the matters set forth to be true and correct to the best of my knowledge and belief.

3. The above-entitled action was commenced on October 6, 2020, in the Eighth Judicial District Court in and for Clark County, Nevada, and is now pending in that Court. Defendant filed its Answer on October 27, 2020. A true and correct copy of Defendant's Answer is attached hereto as Exhibit C. On December 15, 2020, Plaintiff filed an Initial NRCP 16.1 Disclosures Statement in which it was stated that she is seeking past medical damages totaling \$77,782.96 for alleged injuries allegedly sustained at a Walmart store in Las Vegas, Nevada. A true and correct copy of Plaintiff's Disclosures Statement is attached hereto as Exhibit D.

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1 4. On December 15, 2020, I caused to be filed with the County Clerk of the Eighth Judicial
2 District Court, in and for Clark County, Nevada, a Notice of Removal to Federal Court, seeking removal
3 of the above-mentioned action to the United States District Court, District of Nevada, together with a
4 true and correct copy of this Petition for Removal of Civil Action, by depositing such copy with the
5 Deputy Clerk in the County Clerk's Office, Clark County Courthouse, 200 Lewis Avenue, Las Vegas,
6 Nevada 89101.

7 5. This Petition is filed with this Court within thirty (30) days after being served with
8 Plaintiff's Disclosures Statement, which is the "first paper" from which the amount in controversy may
9 be ascertained in the above-entitled action. See 28 U.S.C. §1446(b). Plaintiff's Petition for Exemption
10 indicates they are seeking a total past medical damages award of at least \$77,782.96 for alleged injuries
11 allegedly sustained at a Walmart store in Las Vegas, Nevada. Therefore, Plaintiff's claimed damages
12 exceed the jurisdiction requirement. See Ex. D; 28 U.S.C. §1332(a); *Singer v. State Farm Mut. Auto*
13 *Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997) (holding the "court may consider facts in a removal petition
14 and may require parties to submit summary-judgment-type evidence" to determine the amount in
15 controversy).

16 6. I caused to be served copies of the Notice of Removal to Federal Court and the Petition
17 For Removal of Civil Action upon Plaintiff by depositing them in the United States Mail, on December
18 15, 2020, in an envelope properly addressed, with sufficient postage affixed, to:

19 JONATHAN B. LEE, ESQ.
20 RICHARD HARRIS LAW FIRM
21 801 S. Fourth Street
22 Las Vegas, NV 89101

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

...

1 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is
2 true and correct.

3 Executed this 16th day of December, 2020.
4

5 **PHILLIPS, SPALLAS & ANGSTADT, LLC**

6 */s/ Daniel E. Joslyn*
7

8 DANIEL E. JOSLYN
9 Nevada Bar No. 14725
10 504 South Ninth Street
11 Las Vegas, Nevada 89101
12 (702) 938-1510

13 *Attorneys for Defendant*
14 *Walmart Inc.*
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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of December, 2020, I served a true and correct copy of the foregoing, **PETITION FOR REMOVAL OF CIVIL ACTION BY DEFENDANT WALMART, INC.**, as follows:

☐ By facsimile addressed to the following counsel of record, at the address listed below:

☐ By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

☐ By Hand Delivery (ROC); and/or

☒ By Electronic Filing/Service Notification through Odyssey File & Serve to:

ATTORNEY OF RECORD	TELEPHONE/FAX	PARTY
JONATHAN B. LEE, ESQ. Nevada Bar No. 13524 RICHARD HARRIS LAW FIRM 801 South Fourth Street Las Vegas, Nevada 89101	702-444-4444 702-444-4455 (Fax)	Plaintiff

/s/ Luzandra Aguilar

An Employee of PHILLIPS, SPALLAS & ANGSTADT, LLC